

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:
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PCT

WRITTEN OPINION

(PCT Rule 66)

Applicant's or agent's file reference PAYS0002P		Date of Mailing (day/month/year) 01 NOV 2004
International application No. PCT/US03/41413		International filing date (day/month/year) 29 December 2003 (29.12.2003)
International Patent Classification (IPC) or both national classification and IPC IPC(7): G06F 17/60 and US Cl.: 705/10		Priority date (day/month/year) 27 December 2002 (27.12.2002)
Applicant PAYSCALE, INC.		

1. This written opinion is the <u>first</u> (first, etc.) drawn by this International Preliminary Examining Authority.	
2. This opinion contains indications relating to the following items: <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the opinion II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input checked="" type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application 	
3. The applicant is hereby invited to reply to this opinion. When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d). How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9. Also For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis. For an informal communication with the examiner, see Rule 66.6 If no reply is filed , the international preliminary examination report will be established on the basis of this opinion.	
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: <u>27 April 2005 (27.04.2005)</u> .	
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703)305-3230	Authorized officer Tariq Hafiz Telephone No. (703) 308-1113

Form PCT/IPEA/408 (cover sheet)(July 1998)

DOCKETED

By: _____
 Date: 11/8/04

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International application No.

PCT/US03/41413

I. Basis of the opinion

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed
- ☒ the description:
 - pages 1-32, as originally filed
 - pages NONE, filed with the demand
 - pages NONE, filed with the letter of _____
- ☒ the claims:
 - pages 33-48, as originally filed
 - pages NONE, as amended (together with any statement) under Article 19
 - pages NONE, filed with the demand
 - pages NONE, filed with the letter of _____
- ☒ the drawings:
 - pages 1-33, as originally filed
 - pages NONE, filed with the demand
 - pages NONE, filed with the letter of _____
- ☐ the sequence listing part of the description:
 - pages NONE, as originally filed
 - pages NONE, filed with the demand
 - pages NONE, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

5. ☐ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."

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V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

I. STATEMENT

Novelty (N)	Claims <u>5-7, 13, 35-37, 43, 73-78, 84-85</u>	YES
	Claims <u>1-4, 8-12, 14-34, 38-42, 44-72, 79-83, 85-103</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-103</u>	NO
Industrial Applicability (IA)	Claims <u>1-103</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Please See Continuation Sheet

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VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

Claim 50 is objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: typographical errors. The limitation of the claim states "constraint results , whereindeterministic fields have a higher" that should more appropriately be --constraint results, wherein deterministic fields have a higher--.

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.

V. 2. Citations and Explanations:

Claims 1-4, 8-12, 14-34, 38-42, 44-72, 79-83, 86-103 novelty under PCT Article 33(2) as being anticipated by Compensate.com. The following references describe the aspects of Compensate.com:

- i. Screenshots of Compensate.com dated 02/04/1998, referred to herein as reference A;
- ii. Screenshots of Compensate.com dated 05/05/2001, referred to herein as reference B;
- iii. Screenshots of Compensate.com dated 02/20/1999, referred to herein as reference C.

As per claims 1-4, 8-12, 14-34, 38-42, 44-72, 79-83, 86-103, Compensate.com discloses conducting salary surveys over the Internet (i.e. presenting at least one question) and groups the survey answers using a modeling system and a standardized classification system by job family and level of responsibility (i.e. affinity group). The modeling system uses a statistical engine to deal with the categorical nature of the large answer data sets to produce a robust portrait of pricing dynamics in specific labor markets. The system provides values for every combination of job family and responsibility level within the organizations (adding and storing the profile). Surveys include presenting questions to a user and a user enters possible answers. The answers allow a user to be grouped with a matching affinity group. Output of the system would be distributed over the World Wide Web or via the specific company's intranet. This output reports to the specific user information regarding goals of the user, such as salaries by specific job family and levels, and thus is constrained by the requirements of the specific user, such as the job family in which the user is associated. See at least reference C, pages 4-5 and 7. The tool also has a salary administrator that is a market-based program that meets the salary planning and pay philosophy of the client. See reference B, pages 1-2. The system further provides a company with an estimate of what the market pays for any combination of job family and responsibility level (i.e. filtering). See pages 2-3 of reference A. An affinity group comprises at least a job family (i.e. profession). The system provides example output, but consulting is fee for service.

Claims 5-7, 13, 35-37, 43, 73-78, and 84-85 lack an inventive step under PCT Article 33(3) as being obvious over Compensate.com. The following references describe the aspects of Compensate.com:

- i. Screenshots of Compensate.com dated 02/04/1998, referred to herein as reference A;
- ii. Screenshots of Compensate.com dated 05/05/2001, referred to herein as reference B;
- iii. Screenshots of Compensate.com dated 02/20/1999, referred to herein as reference C.

As per claims 5-7 and 35-47, Compensate.com discloses online surveys and a user entering answers to the survey. See at least reference B, pages 1-2, and reference C, pages 4-5 and 7. However, Compensate.com does not expressly disclose that the answer is entered using open text. However, since open text is old and well-known in the art of on-line form filing (as in there are open text boxes wherein a user would type free text), it would have been obvious to one of ordinary skill in the art at the time of the invention to allow the user to enter open text in order to more accurately match the user with an affinity group by allowing the user to enter very specific information about the job family and level of reasonability that relates to the jobs performed at his/her organization.

As per claims 13 and 43, Compensate.com discloses filtering the data of the system based on any combination of job family and responsibility level needed by the user and the reporting goals of the user. However, Compensate.com does not expressly disclose

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

filtering including modification of an answer based on consistency with previously answered questions. Since the user of compensate.com enters filtering information in order to have the reports tailored to his/her needs as well as fills out an online survey in order to be grouped with the appropriate affinity group, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify an answer to the survey of the user in order to increase the accuracy of the information stored in the system by ensuring that the information entered by the user is consistent with other users in the industry.

As per claim 73-78 and 84-85, Compensate.com discloses selecting a first profile currently entered and not matched with an affinity group, comparing the user profile with other user profiles of the system, finding an appropriate affinity group for the first user, and preparing a report for the first user including information about the affinity group to which he/she belongs. Compensate.com discloses performing the matching based on an affinity (such as job familsy) based on the consistency of the matches. However, Compensate.com does not expressly disclose that the other user profiles have not been previously assigned an affinity group. Since Compensate.com stores information related to specific industries based on received and stored survey data and then groups currently received data with the appropriate affinity group, it would have been obvious to one of ordinary skill in the art at the time of the invention to group a smaller group of currently received data into sub-affinity groups and then match these sub-affinity groups with the larger affinity groups of the system previously stored in order to increase the speed and efficiency of performing groupings by organizing the data before accessing the database of the system.

----- NEW CITATIONS -----

MarketPay Associates. www.marketpay.com. 31 JULY 2002, pages 1-23, see at least page 1, 2, 5-6.